

James J. Gold 80100
Norma L. Hammes 80149
GOLD and HAMMES, Attorneys
1570 The Alameda, #223
San Jose, CA 95126
(408) 297-8750

Attorneys for Defendant

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

Melvin Ott Manning
and
Frieda Daryoush Manning
Debtors

Chapter 13
Case No. 10-5-2343 ASW
Ref. No. 10-05211

Status Conference:
Date: January 7, 2011
Time: 3:00 p.m.
Judge Arthur S. Weissbrodt

Wells Fargo Card Services

Plaintiff

v.

Melvin Ott Manning

Defendant

CASE MANAGEMENT CONFERENCE STATEMENT

Counsel for the Defendant presents the following Case Management Conference Statement:

Summary

The Plaintiff has propounded its first set of requests for admission, and the Defendant has also done so. Counsel for the Defendant cannot state whether the Plaintiff proceed beyond this initial discovery, but the Defendant has carefully chosen his requests to provide focus for follow-up requests for documents and interrogatories.

1 Since the Defendant's discovery is at an early stage, this matter should be
2 continued for about 90 days to allow the Plaintiff to admit or deny these requests
3 and then for the next, and more precisely-targeted, phase of discovery to be
4 engaged.

5
6 Statement

7 1. A statement of the date and time that counsel conferred as required
8 by this order: Counsel for the Defendant and counsel for the Plaintiff have con-
9 tinued to discuss this matter from time to time, and will continue to do so. Gener-
10 ally these discussions are at times when both counsel appear on the same calendar
11 and are short. Each counsel appears to expect that discovery will lead to settle-
12 ment.

13 2. A concise statement summarizing each legal theory on which the
14 plaintiff or defendant relies and a brief general statement of the facts which sup-
15 port this theory: Plaintiff believes that this is a standard credit card cash advance
16 matter, with standard presumptions regarding a transfer of funds due to misrepres-
17 entation by the Defendant and reliance by the Plaintiff. Defendant contends that
18 in the transactions described in the complaint, there were no representations by the
19 Defendant, and no reliance by the Plaintiff, and that in fact the Plaintiff retained full
20 control of the funds subject of the described transactions before, during, and after
21 the transactions and that in fact there were no "cash advances" involved at all.

22 3. The position of the parties with respect to Bankruptcy Rules 7008 and
23 7012(b): This is a core proceeding and jurisdiction is proper. Regarding the other
24 aspects of these rules, counsel for the Defendant takes no position at this time.

25 4. Proposed discovery and proposed cut-off dates for discovery and pre-
26 trial motions: The Defendant has responded to the Plaintiff's (first) Requests for
27 Admissions. Counsel for the Defendant has prepared requests for admissions, and
28

1 initially was thinking of simultaneous requests for production of documents, and
2 interrogatories, but the burden on both parties and both counsel inherent in contin-
3 gent requests was deferred in favor of a multi-stage discovery where each state's
4 requests depends on the responses to the previous.

5 5. The estimated time for trial and desired trial date: Until the end of
6 discovery is in sight, neither of these can be estimated. If the Defendant's discov-
7 ery reveals facts that counsel for the Defendant anticipates, this matter may be
8 resolved by a motion for summary judgment.

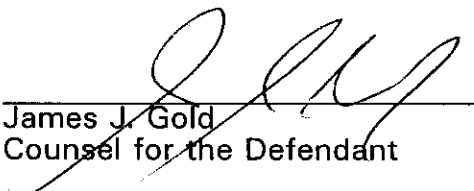
9 6. Whether alternative dispute resolution is desired by the parties: At
10 this time the facts are not seen in the same way by both parties, and so ADR
11 would be a source of frustration.

12
13 Conclusion

14 This Case Management Conference should be continued for 90 to 120 days
15 so that discovery can be gotten underway.

16 Respectfully submitted,

17
18 Dated: December 31, 2010

19 
James J. Gold
Counsel for the Defendant

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Melvin Ott Manning
Frieda Daryoush Manning

Debtors _____ /

Chapter 13
Case No. 10-5-2343 ASW

CERTIFICATE OF SERVICE RE
Case Management Conference Statement

I, the undersigned, declare that I am employed in the County of Santa Clara. I am over the age of 18 years and not a party to the within entitled action. My business address is 1501 The Alameda, San Jose, California.

On December 31, 2010, I served the within Case Management Conference Statement by placing a true copy thereof with postage thereon prepaid in the United States Mail at San Jose, California, to all parties entitled to receive regularly mailed notices, addressed as follows:

Austin P. Nagel / Grace Feldman
Law Offices of Austin P. Nagel
111 Deerwood Road, #305
San Ramon, CA 94583

If the Chapter 13 Trustee is otherwise entitled to notice, she will receive such notice upon the electronic filing of the above-named document.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on December 31, 2010, at San Jose, California.

Dated: December 31, 2010

